

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MARK HALE, TODD SHADLE, and  
LAURIE LOGER, on behalf of themselves and  
all others similarly situated,

Plaintiffs

v.

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY, EDWARD  
MURNANE, and WILLIAM G. SHEPHERD,

Defendants.

Case No. 3:12-cv-00660-DRH-SCW

Judge David R. Herndon

Magistrate Judge Stephen C. Williams

**DECLARATION OF STEPHEN A. SALTZBURG IN SUPPORT OF  
PLAINTIFFS' MOTION FOR ATTORNEYS' FEES AND COSTS**

I, Stephen A. Saltzburg, am a member in good standing of the State Bars of California and Virginia and of the District of Columbia Bar. I am one of the counsel for Plaintiffs in the above-captioned action. I provide this declaration in support of Plaintiffs' Motion for Attorneys' Fees and Costs.

1. I have reviewed the time records that I submitted in this litigation and attest that they are accurate.

2. I further attest that the billing rates used to calculate the lodestar reflect my customary billing rates at the time the services were rendered.

3. A true and correct copy of my resume is attached hereto as Attachment A.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 15, 2018, in the District  
of Columbia.

\_\_\_\_\_  
*/s/ Stephen A. Saltzburg*  
Stephen A. Saltzburg

*Attachment A*

**RESUME**

**STEPHEN ALLAN SALTZBURG**

**WALLACE AND BEVERLEY WOODBURY UNIVERSITY PROFESSOR**

**HOME ADDRESS**

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Washington, D.C. 20009  
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**WORK ADDRESS**

George Washington University Law School  
2000 H Street, N.W.  
Washington, D.C. 20052  
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**PRESENT TEACHING POSITIONS**

Wallace and Beverley Woodbury University Professor of Law, George Washington University  
Director, National Trial Advocacy College at the University of Virginia

**FORMER TEACHING POSITIONS**

Howrey Professor of Trial Advocacy, Litigation and Professional Responsibility, George  
Washington University Law School, 1990-2004  
University of Virginia School of Law, 1972-1990, Class of 1962 Chairholder, 1987-1990

**SUBJECTS TAUGHT**

Civil Procedure, Constitutional Law, Criminal Law, Criminal Procedure, Evidence, Trial  
Advocacy

**EDUCATION**

A.B., Dickinson College, 1967; J.D., University of Pennsylvania, 1970

**CLERKSHIPS**

Honorable Stanley A. Weigel, (ND/CAL), 1970 - 71  
Honorable Thurgood Marshall, 1971 - 72

**GOVERNMENT SERVICE**

**Executive**

Director, Tax Refund Fraud Task Force, U.S. Treasury Department, 1994 - 1995  
U.S. Department of Defense Code Committee, 1989 - 1992  
Ex Officio Member, U.S. Sentencing Commission, 1989 - 1990  
Deputy Assistant Attorney General, Criminal Division, 1988 - 1989  
Associate Counsel, Office of Independent Counsel, 1987 - 1988  
Member, Military Justice Act of 1983 Commission, 1984-1985

**Judiciary**

Mediator, United States Court of Appeals for the District of Columbia Appellate Mediation  
Program, 1992 - Present

ABA Criminal Justice Section Liaison to Federal Rules of Evidence Committee, 2012 -  
Special Master, Yaz and Yasmin MDL, U.S. District Court for the Southern District of  
Illinois, 2011 -  
ABA Liaison to Federal Rules of Evidence Restyling Committee, 2010-2012  
Special Master, Seroquel MDL, U.S. District Court for the Middle District of Florida,  
2009-2011  
Special Master, The Diversified Group, Inc. v. Paul Daugerdas, U.S. District Court for the  
Southern District of New York (attorney-client and work product issues), 2003  
Co-Chair, Third Circuit Task Force on Selection of Class Counsel, 2001-2002  
Special Master, Hartman v. Powell, U.S. District Court for the District of Columbia (class  
action employment case), 1991 - 2000  
Special Master, Hammon v. Barry, U.S. District Court for the District of Columbia (class action  
employment case), 1990 - 1994  
Mediator, Cobell v. Babbitt, U.S. District Court for the District of Columbia, 1999  
Chair, U.S. District Court for the District of Columbia Civil Justice Reform Act Advisory Group,  
1994 – 1999  
Member, Advisory Committee on Federal Rules of Criminal Procedure, 1990 - 1995  
Liaison Member from Advisory Committee on Federal Rules of Criminal Procedure to Advisory  
Committee on Federal Rules of Evidence, 1993- 1995  
Reporter, U.S. District Court for the District of Columbia Civil Justice Reform Act Advisory  
Group, 1991- 1993  
Reporter, Advisory Committee on Federal Rules of Criminal Procedure, 1984 - 89  
Co-Chairman and Reporter of the Virginia Supreme Court's Advisory Committee on Rules of  
Evidence, 1984 - 1985

#### **MEDIATION AND ARBITRATION**

Mediator--Antitrust, Civil Rights, Contracts (Commercial and Government), Defamation,  
Disability, Employment, Environmental, Family Law, Fraud, Intergovernmental,  
Securities  
Arbitrator--United States Cases; International Chamber of Commerce

#### **PUBLIC SERVICE**

Chair, ABA Criminal Justice Section Committee on Trial Advocacy, 1990-1996  
Chair, ABA Criminal Justice Section, 2007-2008  
Member, ABA Criminal Justice Standards Committee, 1996-1999  
Member, ABA House of Delegates 2001-Present  
Chair, ABA Justice Kennedy Commission, 2003-2004  
Co-Chair, ABA Commission on Effective Criminal Sanctions 2005-2008  
Vice-Chair, ABA Litigation Section Committee on Trial Evidence, 1991-1995  
Member, ABA Litigation Section Council, 2001-2004  
Co-Chair, ABA Litigation Section Task Force on Civil Trial Standards, 1997-1998  
Chair, ABA Litigation Section Task Force on the Independent Counsel Statute, 1997- 1999  
Member, ABA Special Committee on the Prosecution Function, 1991-1993

Member, ABA Task Force on the Treatment of Enemy Combatants, 2002-2009  
Member, ABA Task Force on Gatekeeper Regulation and the Profession, 2002-2010  
Member, ABA Task Force on Terrorism and the Law, 2001-2002  
ABA Task Force on Domestic Surveillance in the Fight Against Terrorism, 2006-2009  
Reporter, American College of Trial Lawyers Task Force on Litigation Issues, 1986-1988  
Member, NIJ Less than Lethal Liability Panel, 1993 - 2004  
Reporter, National Committee to Prevent Wrongful Executions, 2000-2002

### **HONORS**

Honorary Faculty Member, Judge Advocate General School, Charlottesville, Virginia  
Recipient, William J. Brennan, Jr. Award, National Trial Advocacy College at the University of Virginia  
Member, Fellow of the American Bar Foundation, 1993 - Present  
2000 ALI-ABA Francis Rawle Award for Outstanding Contributions to Post-Grad Legal Education  
2011 Burton Award Distinguished Award Recipient: Reform in Law  
2014 ABA Grassroots Advocacy Award  
2015 ABA Presidential Citation

### **BAR MEMBERSHIPS**

California, 1971; District of Columbia, 1972; Virginia, 1977

### **PUBLICATIONS**

List Supplied Upon Request

## **PUBLICATIONS OF STEPHEN A. SALTZBURG**

### **BOOKS**

American Criminal Procedure: Cases and Commentary (Author: First Edition 1980, Second Edition 1984, Third Edition 1988), (Co-Author: Fourth Edition 1992, Fifth Edition 1996, Sixth Edition 2000, Seventh Edition 2004, Eighth Edition 2007, Ninth Edition 2010, Tenth Edition 2014; Eleventh Edition 2018)

Basic Criminal Procedure (Co-Author: First Edition 1994, Second Edition 1997, Third Edition 2003, Fourth Edition 2005, Fifth Edition 2009, Sixth Edition, 2012, Seventh Edition, 2017)

California and Federal Evidence Trial Book (Co-Author 1999)

Criminal Law: Cases and Materials (Co-Author: First Edition 1994, Second Edition 2000, Third Edition 2008, Fourth Edition 2017)

Emerging Problems Under the Federal Rules of Evidence (Reporter: First Edition 1983, Second Edition 1991), (Contributing Editor: Third Edition 1998)

Evidence in America (4 Volumes) (Co-Author 1987)

Evidence: The Objection Method (Co-Author: First Edition 1997, Second Edition 2002, Third Edition 2007, Fourth Edition 2011, Fifth Edition 2016)

Evidence Supplement: Rules, Statutes, Commentary (1980)

Federal Criminal Jury Instructions (Co-Author) (3 Volumes, First Edition 1985, Second Edition 1991)

Federal Criminal Procedure Litigation Manual (Co-Author: 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018)

Federal Rules of Evidence Manual (Co-Author: First Edition 1975, Second Edition 1977, Third Edition 1982, Fourth Edition 1986, Fifth Edition 1990, Sixth Edition 1994, Seventh Edition 1998, Eighth Edition 2002, Ninth Edition 2006, Tenth Edition 2011, Eleventh Edition 2015)

Federal Rules of Evidence Manual: The Trial Book (1998, 2002, 2006, 2011, 2015)

Federal Rules of Evidence Trial Book (1998)

Materials on International Human Rights and U.S. Criminal Law and Procedure (Collaboration 1989)

Military Evidentiary Foundations (Co-Author: First Edition 1994, Second Edition 2000, Third Edition 2007, Fourth Edition 2010, Fifth Edition 2013, Sixth Edition 2016))

Military Rules of Evidence Manual (Co-Author) (First Edition 1981, Second Edition 1986, Third Edition 1991, Fourth Edition 1997, Fifth Edition 2003, Sixth Edition 2007; Seventh Edition 2011, Eighth Edition, 2015)

A Modern Approach to Evidence (Co-Author: First Edition 1977, Second Edition 1982)

Ohio Rules of Evidence Trial Book Co-Author 1999)

Principles of Evidence (Co-Author: Fifth Edition 2009, Sixth Edition 2012, Seventh Edition 2015)

Texas Rules of Evidence Trial Book (Co-Author: First Edition 2000, Second Edition 2010, Third Edition 2015)

Trial Tactics (First Edition 2007, Second Edition 2009, Third Edition 2012)

Trying Cases to Win: Anatomy of a Trial (Co-Author 1999)

Trying Cases to Win: Evidence: Weapons for Winning: Hearsay, Confrontation (Co-Author 2003)

Trying Cases to Win: Evidence: Weapons for Winning: Lay Witness and Expert Opinion (Co-

Author 2004)

Trying Cases to Win: Evidence: Weapons for Winning: Relevance, Authentication, Motions in Limine, Voir Dire, Depositions (Co-Author 2000)

Trying Cases to Win: In One Volume (Co-Author 2013)

Washington Evidence Trial Book (Co-Author 1999)

## **ARTICLES**

The Duty to Investigate and the Availability of Expert Witnesses, 86 Fordham L. Rev. 1709-1726 (2018)

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Limits on the Common Interest Attorney-Client Privilege, 32 Criminal Justice 64-65, 68 (Winter 2018)

Rule 410 and the Scope of Waiver, 32 Criminal Justice 51-53 (Summer 2017)

Impermissible Expert Testimony on Credibility: An Illustrative Case, 32 Criminal Justice 41-42, 44 (Spring 2017)

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Proper and Improper Closing Argument, 26 Criminal Justice 62-64 (Summer 2011)

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2011)

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5495 (Lexis.com) (Co-Author)

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Opening the Door to Bolstering, 16 Criminal Justice 50-55 (Summer 2001)

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Importance of Corroboration: Self-Defense as an Example, 15 Criminal Justice 65-69 (Spring 2000)

Self-Defense and the Rules of Evidence, 14 Criminal Justice 46-50 (Winter 2000)

The Unusual Harm from a Compound Question, 14 Criminal Justice 40-41, 44-46 (Fall 1999)

Race: Fair and Unfair Use, 14 Criminal Justice 36-40, 56 (Summer 1999)

Admissibility of Pretrial Proffers at Trial, 14 Criminal Justice 36-39, 44 (Spring 1999)

Judges Interrogate Witnesses: Crossing the Line, 13 Criminal Justice 40-44 (Winter 1999)

*Terry v. Ohio*: A Practically Perfect Doctrine, 72 St. John's Law Review 911-974 (Summer-Fall 1998)

Opinions on Intent: Mirroring Facts of the Case, 13 Criminal Justice 21-24 (Fall 1998)

Non-English-Speaking Witnesses and Leading Questions, 13 Criminal Justice 37-41 (Summer 1998)

Trial Judge Reverses Course: *In Limine* Rulings, 13 Criminal Justice 31-35 (Spring 1998)

Transcripts of Tapes, 12 Criminal Justice 30-34 (Winter 1998)

Authentication: Multiple Defendants, 12 Criminal Justice 50-53 (Fall 1997)

Authenticating Evidence: Some Basics, 12 Criminal Justice 57-51 (Summer 1997)

Stipulations, Probative Value and Unfair Prejudice, 12 Criminal Justice 45-48 (Spring 1997)

Rule of Completeness and Post-Arrest Statements, 11 Criminal Justice 40-42 (Winter 1997)

Improper Witness Vouching, Attacks on Counsel, 11 Criminal Justice 48-51 (Fall 1996)

Limiting Closing Arguments About Evidence, 11 Criminal Justice 42-44 (Summer 1996)

Bias Evidence and Gang Membership, 11 Criminal Justice 46-50 (Spring 1996)

Summaries: Two Types, 10 Criminal Justice 33-36 (Winter 1996)

The Top Ten List: Rules Lawyers Must Know, 22 Litigation 6-10, 71-72

Stipulations, Part III: Convicted Felons on Trial, 10 Criminal Justice 31-34 (Summer 1995)

Stipulations to Exclude Other Act Evidence: What is Adequate, 10 Criminal Justice 39-42 (Spring 1995)

Stipulations by the Defense to Remove Other Act Evidence, 9 Criminal Justice 35-40 (Winter 1995)

Hearsay Exceptions for Business and Public Records, 9 Criminal Justice 40-43 (Fall 1994)

Testimony from an Opinion Witness: Avoid Using the Word "Expert" at Trial, 9 Criminal Justice 35-38 (Summer, 1994)

Expert Opinions by Mental Health Professionals: The Challenges of FRE 704 (b), 9 Criminal Justice 31-35 (Spring 1994)

The Trial Judge as Gatekeeper: Expert Testimony after Daubert, 8 Criminal Justice 38-41 (Winter 1994)

Criminal Procedure in the 1960s: A Reality Check, 42 Drake Law Review 179-203 (1993)

Opinions by Expert Witnesses: Testifying to Ultimate Issues, 8 Criminal Justice 32-35 (Fall 1993)

A Last Word on Impeaching the Witness with Prior "Bad Acts," 8 Criminal Justice 37-40 (Summer 1993)

Improving the Quality of Jury Decisionmaking, 341-377, in Verdict: Assessing the Civil Jury System (1993)

Uncharged Acts: Substantive versus Impeachment Use, 8 Criminal Justice 35-38 (Spring 1993)

Impeaching the Witness: Prior "Bad Acts" and Extrinsic Evidence, 7 Criminal Justice 28-31 (Winter 1993)

Former Testimony, Similar Motive, and Constitutional Implications, 7 Criminal Justice 29-33 (Fall 1992)

Hearsay, Confrontation and Sufficiency, 7 Criminal Justice 39-42 (Summer 1992)

Sentencing Procedures: Where Does Responsibility Lie, Federal Sentencing Reporter 247-50 (March/April 1992)

Polygraph Evidence, Key Witnesses, Deals, Experts...and the Door Opens, 7 Criminal Justice 37-41 (Spring 1992)

Proper and Improper Handling of Uncharged Crimes, 6 Criminal Justice 43-46 (Fall 1991)

Prior Inconsistent Statements: Fair and Unfair Use, 6 Criminal Justice 45-49 (Summer 1991)

The Control of Conduct in Criminal Organizations, 71 Boston University Law Review 421-438 (March 1991)

Bolstering and Attacking the Cooperating Witness, 6 Criminal Justice 43-45 (Spring 1991)

Other Act Evidence: A Change in Discovery Practice, 5 Criminal Justice 34-35 (Winter 1991)

National Security and the Fourth and Fifth Amendments (Chapter 22 in National Security Law) 1001-1032 (Caroline Academic Press 1990)

National Security and Privacy: Of Governments and Individuals Under the Constitution and the Foreign Intelligence Surveillance Act, 28 Va. J. Int'l L. 129-155 (1987)

*Miranda v. Arizona* Revisited: Constitutional Law or Judicial Fiat, 26 Washburn Law Journal 1-26 (1986)

Another Victim of Illegal Narcotics: The Fourth-Amendment (as Illustrated by the Open Fields Doctrine), 48 University of Pittsburgh Law Review 1-25 (1986)

Impeachment of Witnesses and the Federal Rules of Evidence, 22 Criminal Law Bulletin 101-117 (1986)

The Required Records Doctrine: Its Lessons for the Privilege Against Self-Incrimination, 53 Chicago Law Review 6-44 (1986)

Lawyers, Clients, and the Adversary System, 37 Mercer Law Review 674-700 (1986)

Understanding the Jury with the Help of Social Science, 83 Michigan Law Review 1120-1140 (1985)

Corporate Attorney-Client Privilege in Shareholder Litigation and Similar Cases: Garner Revisited, 12 Hofstra Law Review 817-848 (1984)

Pretrial Discovery of Scientific Evidence, 101 F.R.D. 613-621 (1984)

Corporate and Related Attorney-Client Privilege Claims: A Suggested Approach, 12 Hofstra L. Rev. 279-321 (1984)

Frye and Alternatives, 99 Federal Rules Decisions 208-218 (1983)

Habeas Corpus: The Supreme Court and the Congress, 44 Ohio State Law Journal 367-391 (1983)

Burdens of Persuasion in Criminal Cases: Harmonizing the Views of the Justices, 20 American Criminal Law Review 393-421 (1983)

Peremptory Challenges and the Clash Between Impartiality and Group Representation, 41 Maryland Law Review 337-383 (1982) (with Mary Ellen Powers)

Tactics of the Motion in Limine, 9 Litigation No. 4, at 17-21, 63 (1983)

Communications Failing Within the Attorney-Client Privilege, 66 Iowa Law Review 811-841 (1981)

The Flow and Ebb of Constitutional Criminal Procedure in the Warren and Burger Courts, 69 Georgetown Law Journal 151-209 (1980)

The Reach of the Bill of Rights Beyond the Terra Firma of the United States, 20 Virginia Journal of International Law 741-776 (1980)

Privileges and Professionals: Lawyers and Psychiatrists, 66 Virginia Law Review 597-651 (1980)

Virginia's Model Jury Instructions for Criminal Cases, 6 Virginia Bar Journal 16-22, 26 (Spring 1980)

The Unnecessarily Expanding Role of the American Trial Judge, 64 Virginia Law Review 1-81 (1978)

A Special Aspect of Relevance: Countering Negative Inferences Associated with the Absence of Evidence, 66 University of California Law Review 1015-1060 (1978)

Pleas of Guilty and the Loss of Constitutional Rights: The Current Price of Pleading Guilty, 76 Michigan Law Review 1265-1307 (1978)

The Federal Rules of Evidence and the Quality of Practice in Federal Courts, 27 Cleveland State Law Review 173-194 (1978)

Discovering and Applying Foreign and International Law in Domestic Tribunals, 18 Virginia Journal of International Law 611-618 (1978)

Standards of Proof and Preliminary Questions of Fact, 27 Stanford Law Review 271-305 (1975)

Another Ground for Decision--Harmless Trial Court Errors, 47 Temple Law Quarterly 193-277 (1974)

The Harm of Harmless Error, 59 Virginia Law Review 988-1032 (1973)

**BOOK REVIEW**

The Closed Enterprise System, 121 University of Pennsylvania Law Review 176-185 (1972)

**NEWSPAPER SERIES**

Analyzing the Supreme Court for Non-Lawyers, Series 1972-73 (approximately 25 articles),  
The Daily Progress, Charlottesville, VA

**MISCELLANEOUS**

Peña-Rodriguez v. Colorado: The Ultimate Safeguard Against Juror Racial Bias? Geo. Wash. L. Rev. Docket (Oct. Term 2016) <http://www.gwlr.org/pena-rodriguez-v-colorado-the-ultimate-safeguard-against-juror-racial-bias/>

Panelist, Symposium on Hearsay Reform, 84 Fordham L. Rev. 1323-1393 (2016)

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<http://www.gwlr.org/utah-v-strieff-chipping-away-at-the-exclusionary-rule/>

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<http://www.gwlr.org/molina-martinez-v-united-states-when-guidelines-affect-substantive-rights/>

Moderator, The Future of Class Actions in Mass Tort Cases: A Roundtable Discussion, 66 Fordham L. Rev. 1657-1698 (April 1998)

Panel Discussion--Jury Nullification, 145 F.R.D. 166-193 (March 1993)

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Personal Jurisdiction: Some History and Trends in the Supreme Court, in ALI-ABA Civil Practice and Litigation in Federal and State Courts, Vol. I, at 33-86 (1981)

Foreword to Fa, A Comparative Study of Judicial Review Under Nationalist Chinese and American Constitutional Law (University of Maryland Press, 1980)